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16
17 United States District Court
18 For The Central District of California

19
20 United States of America, } Case No 18 CR 172-GW
21 Plaintiff, }
22 v. }
23 Michael Lerma, }
24 Defendant. }

DEFENDANT LERMA'S MOTION
FOR ACQUITTAL; NEW TRIAL
PURSUANT TO FED. RULES 29 AND
33; DECLARATION; EXHIBITS

25
26 TO THE HONORABLE GEORGE WU, CENTRAL DISTRICT JUDGE
27 AND THE UNITED STATES ATTORNEY'S OFFICE:

28 PLEASE TAKE NOTICE THAT defendant MICHAEL LERMA, by and
through counsels of record Marri Derby and Joel Furman, moves for a
judgment of acquittal or in the alternative, a new trial.

1 This motion is based on the Memorandum of Points and Authorities,
2 Exhibits, Declarations, and any other evidence that may be presented at the
3 hearing.

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5 Dated: September 22, 2025 Respectfully Submitted,

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8 /s/ Marri Derby
9 Marri Derby
10 Joel Furman
11 Attorneys for Michael Lerma

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2 **MEMORANDUM OF POINTS AND AUTHORITIES**
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4 **I. INTRODUCTION**

5 Following a jury trial, Mr. Lerma (Lerma) was convicted of RICO
6 Conspiracy by engaging in the crime of murder, extortion and drug
7 trafficking (Count 1); Aiding and Abetting first degree murder (Count 7);
8 First Degree murder within the special maritime jurisdiction (Count 8); and,
9 Drug Trafficking Conspiracy (Count 10). As demonstrated below, discovery of
10 new evidence and the preclusion of certain evidence and testimony at trial
11 requires this Court either dismiss the charges or grant a new trial.

12 **II. STATEMENT OF FACTS**

13 a. Physical Evidence of Lerma's Involvement

14 The evidence relating to Lerma's involvement was primarily based
15 upon the testimony of cooperators. The paltry physical evidence offered as
16 corroboration to the cooperator testimony—only one piece of which purports
17 to directly involve Lerma in the Mexican Mafia--is the following:

18 i. **Agent Talamantez' Testimony—Jpay and Recorded Call**

19 Agent Talamantez testified about **JPay records** (Exhibit 350, attached
20 as Exhibit A) for Mr. Lerma from Pelican Bay State Prison (RT3:88-93)¹.
21 Exhibit 350 was introduced by the government as evidence that Cheryl Perez
22 and her daughter put money on Mr. Lerma's JPay account (approximately
23 \$700 over 4 year period). The government argued this was proof that Cheryl
24 Perez was Mr. Lerma's "secretary" for the Mexican Mafia.

25 Talamantez also testified that during his investigation he listened to a
26 **recorded call, Exhibit 215** (transcript of the call, Exhibit 215a, is attached
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¹ Reporters Transcripts, day 3, pages 88-89.

1 here as Exhibit B). The call and transcript were admitted into evidence. The
2 government attempted (and at one point did elicit) numerous times to elicit
3 from Agent Talamantez that when Cheryl Perez (Castaneda, CC) and
4 Seferino Gonzalez (SG) mention “brother” they are referring to Lerma. There
5 were many objections regarding this testimony. At one point after the
6 defense’s continued objection as lacking foundation, the court held a sidebar
7 and asked the government “is there anywhere in the...any of the transcripts
8 where Ms. Perez – or Mr. Gonzalez... identifies Lerma as the brother?”
9 (RT3:238:7-13) The government responded, “*It's only in code. What we have*
10 *is obviously the JPEG [presumably JPay] records. We have everything else –*
11 *the 12th Street and all that. They talk about “he would be giving up the keys”*
12 *and everything like that. But hearing the actual name, no.*” (RT:238:14-18)
13 The court then ruled that the government could not elicit testimony from
14 Agent Talamantez that “brother” meant Lerma. The government’s response
15 to this Court’s inquiry is instructive in that it shows how weak the evidence
16 against Mr. Lerma is. The government’s argument is circular; physically thin;
17 and lacks reference to any physical evidence (other than the JPay) because
18 there isn’t any evidence.

19 The government’s argument that Lerma was the Mexican Mafia
20 “brother” Cheryl Perez was working for was further vitiated by the testimony
21 of JM. JM testified that when Cheryl Perez referred to Lerma as her brother,
22 he thought she meant her biological brother. (RT 12:116)

23 **ii. Letters to and From Lerma Located at Cheryl Perez’ Home**

24 The government moved into evidence (through the testimony of
25 Detective Daniel Watkins (RT6:44-45), letters written by Michael Lerma and
26 Cheryl Perez, located during the search of Cheryl Perez’ home (Exhibits 359,
27 360 and 361). Copies of these letters/exhibits are attached here as Exhibit C.
28

1 Detective Watkins testified that he did not know that Lerma was
2 related to Cheryl Perez, he did not know that she was the aunt of Mr.
3 Lerma's children (RT 6:65). It is clear the agents did not know they were
4 related until the trial. The discovery included reports which alleged to
5 interpret the "coded" language of these letters, such as the word "family"
6 meant the Mexican Mafia. The government wisely did not attempt to argue
7 the letters were coded once they understood the familial relationship. Yet,
8 the government continued to argue that the documents proved that Cheryl
9 Perez was taxing on behalf of Michael Lerma.

10 Virgina Gutierrez testified that she is Mr. Lerma's sister. She testified
11 that Lerma was married to Cynthia, Cheryl Perez's sister; that Lerma and
12 Cynthia had two children together, Trina and Michael jr. She testified Cheryl
13 Perez was Lerma's ex-sister-in-law and that Cheryl was the maternal aunt to
14 Lerma's two children.

15 **iii. Roll Call—ML Testimony**

16 The "roll call" that ML allegedly obtained from Arthur Estrada "Turi"
17 was litigated pretrial. This Court noted in it's tentative, "**the Government has**
18 **done very little to demonstrate [appropriate/legal] this admissibility, as the**
19 **discrepancy as to author remains and the chain of custody is yet uncertain.**"
20 Little changed during trial.

21 ML testified he was a shot-caller for the Mexican Mafia. In that
22 capacity he was given and or copied a list of Mexican Mafia members, that he
23 termed, a "roll call". ML testified that he mailed things to "known members of
24 the Mexican Mafia" by using a list of names he called a "roll call", and the
25 names were numbered (RT6:118:4-16). ML further testified he got the names
26 from Turi (who was a member), that he wrote them all down and took them
27 home with him. The roll call had 150 names on it, and he used it to forward
28 mail on behalf of the Mexican Mafia. (RT6:118:17-25; 119:1-7) ML was shown

1 Exhibit 163 on direct and stated that he recognized it and stated he wrote it.
2 He was asked, "Q: All four pages? A: Yeah." (RT6:120:5-25; 122:1-7) ML is
3 then led by the prosecution and shown Exhibit 168.

4 Q: Do you recognize 168?

5 A: Yes, sir.

6 Q: As what?

7 A: The roll calls that I wrote.

8 And then the prosecution asks again.

9 Q: Does this (Ex 168) include the roll call that you wrote?

10 A: Yes, sir.

11 Q: Does this also include the roll call that Turi gave you?

12 A: Yes.

13 (RT6:159:13-25; 160:1-11)

14 ML testified he was instructed by Turi to make a copy of the list so he
15 could help Turi out by forwarding mail when he got released. ((RT:128:14-25)
16 The jury was shown the roll call and it was passed around. It was also placed
17 on monitor.

18 On cross, ML stated he wrote the roll call around March 2011.

19 (RT6:247:15-22) In his first proffer session he acknowledged that he was
20 asked about the Mexican Mafia, and the Mexican Mafia members he knew.
21 He never mentioned the roll call, nor Lerma. In his second proffer on March
22 24, 2022, a few months later, he again never mentioned this roll call and this
23 is the first time he mentions Lerma only after being specifically asked about
24 Lerma by the agents. (RT6:248:7-25; 249:1-10) In the third proffer,
25 September 29, 2023, again never mentioned the roll call. In the fourth proffer
26 session on October 20, 2023, even though in every proffer session the agents
27 are asking about the Mexican Mafia, ML again did not mention the roll call.
28 Apparently because he "forgot all about that roll call" and because "it's not a

1 get-out-of-jail-free card.” ML did not mention the roll call until five proffer
2 sessions and 2 years later. (RT6:249-250)

3 Self testified on 2-27-25 at approximately 3:57 pm that it was his
4 position that Mike Lerma is a member of the Mexican Mafia because of this
5 roll call. “I have seen a roster of Mexican Mafia members that was written by
6 a Mexican Mafia shot-caller in a way to correspond with Mexican Mafia
7 related business that only Mexican Mafia members were on. Included their
8 name, their gang or city they are from as well as their CDC number.”²

9 This roll call or kite, is the only physical evidence that identifies Mr.
10 Lerma as a “member”.

11 b. Testimonial Evidence of Lerma’s Involvement

12 The testimony from the cooperators was essentially the same. At trial
13 they testified that Lerma was involved in drug sales at MDC and ordered
14 discipline.

15 i. Ryan Tawa

16 Ryan Tawa had several proffer sessions and desperately wanted to
17 cooperate and wanted to provide information the government would find useful
18 (he was facing a mandatory minimum sentence of 15 year and a USSG
19 recommended sentence of 19 ½ years (RT 10:15-16). He proffered three times,
20 but the proffers “didn’t work” (RT 10:24:1-3). He was unsuccessful in obtaining
21 a cooperation agreement. In those proffers (the first proffer was on July 31,
22 2019), he discussed what he knew about drug dealing and the Mexican Mafia
23 and gave information regarding drug dealer Dodger and Mexican Mafia
24 members Cricket and Wizard (although he was housed with Lerma on the 9th
25 floor and then on the 6th floor). He never mentioned Lerma’s name. He never
26 mentions Mr. Lerma until a year after SB’s death (2 years after his first
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28 ² The final transcripts of Detective Self have not been prepared. This was taken from the Realtime Unedited
Transcript for the 27th of February, 2025.

1 proffer), and only after being specifically asked about him by Agent
2 Talamantez. (RT10: 21-38). Tawa states at trial that he personally bought
3 drugs from Lerma, but does not have any transaction numbers or documents
4 to provide like he had for Wizard and Dodger. He knows this is evidence, knows
5 to keep it, but there simply isn't any for Lerma, just his statement for the first
6 time during trial (RT 10:39-40).

7 **ii. ML**

8 ML testified about the “roll call”. Additionally he testified that he sold
9 drugs and committed discipline on behalf of Lerma. ML gave many conflicting
10 statements about his involvement with Lerma.

11 **iii. JJ**

12 JJ testified that he talked rarely with Lerma but found Lerma to be a
13 pretty intelligent guy, they talked about finances. (RT 10:107.) 3-4 days prior
14 to SB’s death, he claims to have overheard a conversation between SB and
15 Lerma. He heard Lerma say “You need to take care of this. You are not going
16 to make it through this time. There is nothing I can do for you.” (RT 10:116.)

17 **iv. AJ**

18 AJ testified he knew Lerma from 6N at MDC. He testified that he saw
19 Lerma and co-defendant’s beat up a guy in Mr. Lerma’s cell (RT 11:165-166).
20 On June 28th, 2020, he said after he saw Squeaks, Swifty, and Popeye leave
21 SB’s cell, he saw Lerma walk over and try to open the door to SB’s cell, but did
22 not open the door. The window was covered by a brown cloth. (RT 11:177-178).

23 **v. RM**

24 RM did not offer any testimony about Mike Lerma.

25 **vi. JM**

26 JM testified he met Cheryl Perez in 2012 and taxed areas of Pomona for
27 her. He believed Cheryl Perez was sending the “tax” money to Mr. Lerma,
28 because said she was sending it (RT 12:126:12-23). He never observed her

1 sending money to Lerma, “she just told us she was doing it.” (RT: 13:54:18-25;
2 55:1-2) JM also testified that Mr. Lerma was the leader of the Hispanic
3 inmates on 6N at MDC, that Lerma was to “make sure everything was
4 controlled in the unit.” (RT 12:162:13-20). He said he purchased drugs from
5 Swifty and Lerma (RT 12:164), but Lerma never gave him drugs personally,
6 Swifty gave the drugs to him, but he asked Lerma (RT 13:61:1-6). He testified
7 he and Scooby were stabbed for drug debts. He said he was stabbed by four
8 people, including Lerma (RT 12:168-169). He stated that while in the SHU,
9 although he was on A range and Lerma was on B range, Lerma passed a
10 message, “told me to stay strong.” (RT 12:230).

11 JM testified that after he returned to his cell, he saw that his cellie, SB,
12 was stabbed. He said he gave him CPR by putting SB’s shirt on his mouth and
13 breathed into his mouth and pushed on his chest. There were no blood splatters
14 nor DNA evidence offered into evidence.

15 III. NEWLY DISCOVERED EVIDENCE

16 a. Document on Public Intelligence Site

17 At some point after the trial, while the jury was deliberating, counsel
18 located a document on the internet:

19 [//efaidnbmnnibpcajpcglclefindmkaj/](https://efaidnbmnnibpcajpcglclefindmkaj/)<https://info.publicintelligence.net/CA-MexicanMafia.pdf> (A copy is attached as Exhibit D).³ The document
20 appeared to be some sort of official document listing members of the Mexican
21 Mafia, their locations, and their prison numbers. The document states it was
22 created in 2011, and that the photos were provided by the “IGI’s from Pelican
23 Bay State Prison, California State Prison—Corcoran and San Quentin.”⁴ As
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27 ³ <https://publicintelligence.net/about/> The website states that Public Intelligence was created in 2009 and is an
international, collaborative research project that wishes to defend the public’s right to access information.
28 ⁴ IGI appears to refer to Institutional Gang Investigator within the Department of Corrections,
<https://www.cdcr.ca.gov/insidecdcr/2020/02/24/cdcr-anti-gang-efforts-foil-mexican-mafias-csp-los-angeles-county-plans/>

1 stated in counsel's attached declaration, counsel believed it looked almost
2 identical to the "rollcall" that witness Landeros said Turi had either given to
3 him or copied from him.

4 **b. Arthur Estrada "Turi"**

5 Later sometime in early August 2025, counsel looked at the document
6 from Public Intelligence, Exhibit D, again. Counsel ran the CDCR number for
7 Estrada through the CDCR locator. The locator showed Arthur Estrada as
8 housed in Pelican Bay since 2004. Therefore counsel determined that Turi,
9 Arthur Estrada, was alive and currently housed in Pelican Bay Prison.

10 As stated in the Declaration, counsel went through the process of
11 getting authorization for a legal call with Mr. Estrada. The call occurred on
12 September 3, 2025, at 10:00 am. Due to the protective orders in this case, in
13 an abundance of caution, Counsel did not mention the name of ML, or
14 monikers Smokey, or Broomstick. Mr. Estrada confirmed that he was Arthur
15 Estrada and his nickname was Turi. He was in Corcoran during 2011-2012,
16 and he was in the SHU. He was housed alone without a roommate. He said
17 he was given yard time, but when on the yard, he was in a cage alone. There
18 were other SHU inmates on the yard, but only those on your SHU tier and all
19 were in separate cages. No one from general population was on the yard
20 when those from the SHU were on the yard. He was asked if he had any
21 recollection of the following:

22 1. Q: Did you ever possess a list with over 100 names of all the
23 Members of the Mexican Mafia? A: NO. He stated he would never
24 possess nor write such a list as it would be against EME rules, "I am
25 old school, you never write down members names, you memorize only."
26 "I know there are some newer members who might do things
27 differently, but even they would not write any such list."

1 2. Q: In 2011 through 2012 did you keep records of Members locations
2 and or CDC or Fed Reg numbers? A: "No. I once had a couple of CDC
3 numbers in my property. I got busted for having that and was sent to
4 the SHU. The CDC used that (having those numbers) against me to
5 validate me as a Member, and I have been in the SHU ever since. I
6 would never write down any CDC numbers and give them to someone
7 else, I wouldn't do that to someone."

8 3. Q: Did you ever while out on the yard at Corcoran give a list with
9 Member names, locations and prison numbers, to anyone to copy? A:
10 "No. I would never make or have a list like that."

11 4. Q: Did you ever verbally give anyone, while out of the Yard, a list of
12 the Members and their location and numbers? A: No.

13 5. Q: Did you ever give anyone such a list through the vents or toilets
14 while at Corcoran? A: "No. That would be crazy. No one would ever give
15 that information over any vent". Also, "no one would give that
16 information to a soldier". "All of this is just not going to happen." The
17 only list he ever remembers having or seeing that contained Member
18 names was a list of a few names of members who were no longer "good".
19 "I immediately flushed it."

20 6. Q: Did you ever give anyone or tell anyone to assign a number to
21 members and then use the number to send things to that numbered
22 member? A: "No, never."

23 The many conflicting statements of ML regarding this rollcall; the fact
24 that it is remarkably similar to the document located on the internet from
25 Public Intelligence; and, the contrary statements from Arthur Estrada, make
26 it clear that witness ML lied during his testimony.

27 c. Daniel Navarro
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1 Daniel Navarro signed a declaration (the declaration is attached to
2 Defendant Carlos Gonzalez' Rule 33 Motion). He is an inmate at MDC-LA.
3 During the trial in this matter he was in the SHU on C range. He met Slim
4 there, and Slim told him that he was a member of the "Green Light Gang",
5 and that he was second in command of the gang. He said he received kites
6 from Slim where Slim said he took out his cellmate while having a bad trip
7 by strangling him. He states that Slim wrote that he was testifying against
8 inmates charged with the murder of his cellmate because he wanted to get
9 less time and because they did him wrong so he's doing them wrong. He got
10 the impression that Slim was intimidated by these individuals. Slim wrote
11 that he wanted Navarro to join the green light gang. In one of the kites Slim
12 asked him for advice on the best strategy for his testimony. Slim
13 complimented Navarro for his legal knowledge and thought he would be a
14 "strong upgrade" to the Green Light Gang. Navarro said Player, G, Bad Boy
15 and Creeper passed the kites to him.

16 **d. Johnny Macias**

17 Johnny Macias's declaration (also attached to Carlos Gonzalez' Rule 33
18 Motion) states his nickname is "Player" and he was housed in C Range of the
19 SHU at MDC-LA with Jose Martinez. Jose Martinez (Slim) talked all the
20 time. He heard Slim confess to killing his cellmate, Steve Bencom, by
21 stabbing him in the eye and heart. Further he heard Slim confess to hating
22 Lerma and bragging that he was going to pin the murder on Lerma and was
23 going to do whatever it took to take Lerma down. During the trial Slim would
24 say negative comments about Lerma's and the co-defendant's appearance.
25 Slim wanted him to join the "Green Light Gang." Slim gave him kites to pass
26 to Daniel Navarro. He describes Daniel Navarro as a "legal beagle." He
27 describes Navarro as kind and always giving inspiration to others. He
28 describes Martinez as always bragging and a weasel.

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2 **IV. WITNESSES SCOOBY, LT. LAND, DEVAULT, and TOLBERT**
3 **a. Scooby (Francisco Ruiz)**

4 In order to counter the scientific evidence, the government relied on lies
5 and fake emotion from the cooperators. JM's credibility is crucial for the
6 government because the scientific evidence leads to one conclusion, JM was
7 SB's killer because he was the only one who had access during the crucial
8 time period.

9 At trial, JM testified that he and Scooby got "disciplined" for using
10 drugs and drug debts. He painted a gruesome picture and said he and Scooby
11 were disciplined by getting stabbed. He said he saw Scooby get stabbed 16
12 times (RT: 13:78-79).

13 Scooby was interviewed by the defense. Scooby would have testified
14 that the only time he was ever involved in any sort of discipline with Jose
15 Martinez ("Slim") was when Slim stole a watch (not the convenient story of
16 drug debt to fit the government's theory). Scooby said he did not know the
17 watch was stolen and traded drugs with Slim for the watch. Later he found
18 out (while wearing the watch) that it was another inmate's watch and that it
19 had been stolen. He said he was told he was to make sure anything he buys is
20 not stolen. He stated he was never stabbed, let alone 16 times. When he was
21 interviewed, he jumped up and lifted his shirt to show that there were no
22 stab wounds.

23 Scooby was lawfully ordered by this court pursuant to a Writ of Habeas
24 Corpus ad Tesificandum to testify as a witness in this case⁵. However, the
25 Los Angeles Sheriff's Department refused to produce Scooby. USMS Shaton
26 McDaniel informed the clerk and counsel via email, stating, "I wanted to

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⁵ Scooby Writ of Habeas Corpus ad Testificandum including Declaration is attached as Exhibit E.

1 provide you the status of this writ. This writ was denied by LASD as this
2 inmate has scheduled court dates. He will not be available for testimony.”
3 Counsel tried multiple times to obtain cooperation from the LA County
4 District Attorney and the LASD to secure Scooby’s presence (See Doc. 1694,
5 Motion for Judicial Notice). In Document 1694, defense counsel for Lerma
6 requested to call USMS Shaton McDaniel to testify regarding the status of
7 the Writ to have Scooby testify or read the status of the writ into evidence.
8 The court denied counsel’s request. Leaving JM’s testimony without the
9 contrary testimony of Scooby is unfair and left the jury with false testimony.

10 **b. Lt. Land**

11 The government elicited testimony from JM that after the murder of
12 SB, while in the SHU, Lerma passed JM messages, telling him to stay strong.
13 (RT 12:230) JM testified that although he was on A range and Lerma was on
14 B range, Lerma passed messages.

15 Lt. Billy Land was in charge of the SHU. He was called to testify by
16 Counsel Richard Lasting about what JM said when his property was
17 searched at the SHU.

18 Counsel for Lerma requested to ask Lt. Land a few questions to
19 describe the SHU. The court denied counsel’s request. (RT: 14: 264-268)⁶

20 The testimony of Lt. Land was important because it would show that
21 Jose Martinez was lying. It is impossible to pass messages from different
22 ranges in the SHU. They are separated by cement walls and steel doors.

23 **c. Witness Devault Refusing to Comply with Court’s Order**

24 Counsel for Lerma filed a Writ of Habeas Corpus ad Testificandum for
25 Mr. Lamont Devault to be brought from Soledad State Prison to testify in this

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⁶ Defendant Lerma filed a Motion to Recall Lt. Land to Testify Regarding the SHU Layout. The government filed an
Opposition and Defendant Lerma filed a reply. They were filed under seal.

1 case⁷. Mr. Davault was important regarding the credibility of AJ and JJ.
2 They are black inmates like Mr. Devault. It was his opinion, and the
3 reputation amongst the black inmates, that AJ and JJ were liars and would
4 do anything to get out of custody, that they “would sell information” and
5 “would sell their mothers to get out.” He also had information about his co-
6 defendant, SB. He noted that he was always stressing about getting drugs in
7 MDC. He never knew him to be stressing about drug debts, only about
8 getting heroin for his habit.

9 The court issued the writ. During trial, on March 5th, Shaton McDaniel
10 from the USMS informed counsel for Lerma and the CRD for this Court that
11 Mr. Devault “refused to allow the deputies to pick him up from his state
12 facility.”⁸

13 Mid-trial, counsel for Lerma was at a loss as to how to get the witness
14 to follow this court’s order.

15 A new trial would allow Lerma to obtain this witness. Without this
16 witness the jury was precluded from hearing vital reputation and opinion
17 testimony regarding the character of these two cooperators.

18 **d. Alfonso Tolbert**

19 Lerma filed a Writ of Habeas Corpus ad Testificandum for witness
20 Alfonso Tolbert. He was brought to MDC from Arizona on this writ. Lerma
21 filed a motion in support of calling witness Tolbert (Doc. 1695). The
22 government’s theory in this case was that Cheryl Perez was the “secretary”
23 for a Mexican Mafia member, that member being Mr. Lerma. Mr. Tolbert was
24 a trustee and had interactions with Cheryl Perez and Mike Lerma. Cheryl
25 Perez told Tolbert that she was Lerma’s wife. He said she was demanding
26 and bossy, and always wanted extra things from his cart. Sometime later,
27

28 ⁷ Copy of Writ attached as Exhibit F.

⁸ Copy of email attached at Exhibit G.

1 Tolbert met Lerma and told him that he had met his wife, Cheryl. He noted
2 that Lerma became visibly angry, shook his head, and stated, “She’s not my
3 wife. Stay away from her, she is bad news.”

4 The court erroneously excluded this witness. The evidence was offered
5 for a non-hearsay purpose as they were offered not for the truth, but to show
6 the effect on the listener. This is not the response one would expect from a
7 “member” when hearing about his “secretary”.

8 **V. LEGAL ARGUMENT**

9 **a. Rule 29**

10 The Due Process Clause of the Fourteenth Amendment protects an
11 accused in a criminal case against conviction except upon proof beyond a
12 reasonable doubt. *In re Winship*, 397 U.S. 358 (1970). In reviewing a
13 sufficiency of evidence claim pursuant to Rule 29, “the relevant question is
14 whether, after viewing the evidence in the light most favorable to the
15 prosecution, any rational trier of fact could have found the essential elements
16 of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 444 U.S. 307,
17 319 (1979). Under this standard, a defendant need not show that there is “no
18 evidence” to support the jury’s verdict. *See id.* at 312-13, 320 (rejecting “no
19 evidence” rule of *Thompson v. Louisville*, 362 U.S. 199 (1960)). To the
20 contrary, the government “must present substantial evidence as to each
21 element of the offense from which a jury could find the accused guilty beyond
22 a reasonable doubt.” *Brown v. Davis*, 752 F.2d 1142, 1145 (6th Cir. 1985)
23 (internal citation omitted). Where the evidence is at least as indicative of
24 innocence as guilt, the Court must direct a verdict of acquittal. *United States
v. Berger*, 224 F.3d 107, 116 (2nd Cir. 2000); The “evidence is insufficient to
25 support a verdict where mere speculation, rather than reasonable inference,
26 supports the government’s case.” *United States v. McGaha*, N.D. California,
27
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1 No. CR 15-0126 WHA, citing *United States v. Nevils*, 598 F.3d 1158, 1167 (9th
2 Cir. 2010).

3 Based upon the above and the motions of co-defendants, this court
4 should find that the government failed to present sufficient evidence for the
5 charges pursuant to Rule 29. Aside from the alleged “roll call”, the physical
6 evidence offered (the Jpay records, phone call, and letters between Lerma
7 and Cheryl Perez) is subject to two reasonable interpretations and more
8 likely favors an innocent interpretation. Cheryl Perez put money on Lerma’s
9 books because she was the maternal Aunt of his two children. There is zero
10 evidence that Lerma knew or was ever informed of what Cheryl Perez was
11 doing and zero evidence that he gave his approval. The government’s
12 response to this Court’s question whether there was any evidence elsewhere
13 where Cheryl Perez refers to Lerma as the brother she is working for is
14 instructive: “*It’s only in code. What we have is obviously the JPEG*
15 *[presumably JPAY] records. We have everything else – the 12th Street and all*
16 *that. They talk about “he would be giving up the keys” and everything like*
17 *that. But hearing the actual name, no.*” (RT:238:14-18) This sums up the
18 evidence against Mr. Lerma.

19 The final piece of physical evidence, the “roll call”, is obviously fake. It
20 is clear from the many inconsistencies of ML, especially regarding the “roll
21 call”, and the statements of Arthur Estrada, that ML either copied or had
22 someone else copy the document from the PI site. It is clear ML lied. This
23 court should discard entirely the testimony of ML.

24 The testimony of JM should be completely discarded based upon the
25 newly discovered evidence and precluded evidence. His testimony was
26 completely self-serving; concocted to protect himself.

27 The testimony of RT was clearly made up after repeated attempts at
28 cooperation had failed. He took the bait from the questioning of Agent

1 Talamantez and ran with it, securing his release. It should be discarded
2 entirely.

3 The testimony of AJ and JJ should be similarly discarded. AJ is a
4 “serial” cooperator (as demonstrated in his *Massiah* hearing), who clearly
5 knows how to work the system in his favor. According to Lamont Devault
6 both AJ and JJ are liars and would say anything, even sell their own
7 mothers, if it would mean they could get out of custody.

8 The evidence is insufficient. This court should grant Mr. Lerma’s Rule
9 29.

10 **b. Rule 33**

11 Rule 33 has a different standard than Rule 29. In Rule 29, the evidence
12 is viewed in the light most favorable to the government. In contrast, in Rule
13 33 motions for new trial, “The district court need not view the evidence in the
14 light most favorable to the verdict; it may weigh the evidence and in so doing
15 evaluate for itself the credibility of witnesses.” *United States v. Kellington*,
16 217 F.3d 1084, 1095 (9th Cir. 2000). Rule 33 of the Federal Rules of Criminal
17 Procedure authorizes the Court “upon the defendant’s motion, [to] vacate any
18 judgment and grant a new trial if the interest of justice so requires.” Fed. R.
19 Crim. P. 33(a). Under Fed. R. Crim. P. 33, the Court may vacate the
20 judgment and grant a new trial in the interest of justice if the weight of the
21 evidence does not support the jury’s verdict. In considering the weight of the
22 evidence, the Court “may act as a thirteenth juror, assessing the credibility of
23 witnesses and the weight of the evidence.” *United States v. Hughes*, 505 F.3d
24 578, 592 (6th Cir. 2007). “A district court’s power to grant a motion for a new
25 trial is much broader than its power to grant a motion for judgment of
26 acquittal... Our role is limited to determining whether the district court
27 clearly and manifestly abused its discretion. *United States v. Inzuna*, 638

¹ F.3d 1006, 1026, (9th Cir. 2009), citing *United States v. Alston*, 974 F.2d 1206, 1211-12 (9th Cir. 1992) (Emphasis Added.)

United States v. Berry, 624 F.3d 1031, 1042 (9th Cir. 2010) outlines a five-part test governing motions for new trial based on newly discovered evidence. The evidence must be newly discovered; the defendant must show they exercised due diligence; the evidence is not merely cumulative or solely impeaching; it must be material; the evidence must be significant so that it would probably result in an acquittal. The defendant bears the burden of demonstrating due diligence as to why the evidence was not discovered before or during trial. If the defendant knew about the possibility of the evidence before trial but failed to pursue it, the motion fails. While the standard is high, it is focused on reasonable diligence given the circumstances. Defendant must demonstrate he undertook a good-faith effort.

14 In *Berry*, the evidence did not demonstrate that the witness committed
15 perjury at the trial. *Id.* at 1043. The evidence here demonstrates that
16 witnesses ML and JM committed perjury at trial.

17 The interests of justice require this Court grant a motion for new trial.
18 The paltry physical evidence; the witness testimony that was precluded due
19 to others failing to comply with this Court's orders to transport; the Court's
20 rulings preventing witness testimony; AND, the discovery of new evidence
21 requires this Court use it's discretion to grant a new trial.

/s/ Marri Derby
Marri Derby
Joel Furman
Attorneys for Michael Lerma

1
2 **DECLARATION OF MARRI DERBY**
3

4 I, Marri Derby, declare:

- 5 1. I am an attorney licensed to practice law in the State of California and the
6 Ninth Circuit. I was appointed to represent Defendant Lerma pursuant to the
7 Criminal Justice Act.
- 8 2. While the jury was out on this matter, I was researching something (I do not
9 remember what) about the Mexican Mafia on the internet. I saw the Public
10 Intelligence site and clicked on it.
11 [//efaidnbmnnibpcajpcglclefindmkaj/https://info.publicintelligence.net/CA-MexicanMafia.pdf](https://info.publicintelligence.net/CA-MexicanMafia.pdf)
- 12 3. The document that is contained in Exhibit D was the only document contained
13 on this Public Intelligence link. It looked very much like ML's "roll call" was
14 copied from this document.
- 15 4. Later, in the beginning of August, as I was working on this motion, I looked
16 again at the Public Intelligence document and noticed that the CDCR
17 numbers were not redacted. I decided to see if the CDCR numbers were
18 correct, to see if they would link to the correct name in the CDCR inmate
19 locator. When I inserted the number for Arthur Estrada, Turi, it showed that he
20 was housed in Pelican Bay State Prison since 2004.
- 21 5. I was very surprised because we were under the assumption that Arthur
22 Estada was deceased. We are not sure how we came to believe this. It might
23 have come from a misreading of Agent Talamantez' timeline (he notes that
24 Arthur Estrada's brother is deceased). Regardless, we honestly believed he
25 was deceased and noted this in Lerma's Motion in Limine to Exclude Jail
26 Writings and Testimony about Jail Writings filed January 7, 2025 under seal.
- 27
- 28

1 On page 3, lines 14-15 it states, "Estrada is not alleged to be part of the
2 instant conspiracy, and is also deceased."

- 3
- 4
- 5
- 6 6. I then contacted Pelican Bay and confirmed Arthur Estrada was there. I called
7 and sent emails and ultimately was able to set up a legal phone call with
8 Estrada. Prior to the date of the call, I sent Estrada a letter introducing myself
9 and told him I had some questions and hoped he would agree to speak to me.
- 10
- 11 7. On September 3rd, I received a call from Pelican Bay State Prison. They
12 connected me to Estrada. I spoke to him and then connected attorney Joel
13 Furman to the call. I asked him the questions outlined in this motion and he
14 responded as stated in this motion.

15

16 I declare the above to the best of my knowledge and belief that the
17 foregoing is true and correct and that this declaration is executed at Laguna
18 Beach, California, on January 16, 2025.

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/s/Marri Derby

Marri Derby

Attorney for Michael Lerma

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EXHIBIT A

1 DECLARATION OF CUSTODIAN CERTIFYING BUSINESS RECORD

2, RENE Ramos (name), hereby declare as follows:

3. I am a duly authorized custodian of records for

4 CDCR (name of business or entity) (the
5 "Business Entity"). In that capacity, I am knowledgeable about the
6 matters set forth herein and am qualified and authorized to make this
7 declaration.

8 a. My job title/position is: Special Agent.

9 b. I have been employed in this capacity for 25 1/2 years
10 (duration), and by the Business Entity for CDCR
11 (duration).

12 c. My job duties are: CONDUCT major CRIME INVESTIGATIONS

13

14

15 d. I am knowledgeable about the matters set forth herein
16 and the relevant record-keeping practices of the Business Entity
17 based upon the following (check all that apply):

18 Training

19 Familiarity with relevant policy/policies

20 Hands-on experience

21 Supervision of one or more others with hands-on
22 experience

23 Other (describe):

24

25 2. Attached hereto or enclosed herewith are originals
26 true and correct duplicates (check one of the boxes) of a record or
27 records of a regularly conducted activity of the Business Entity
28 named above.

3. I certify that the attached record(s):

a. was/were made at or near the time of the occurrence of the matters set forth therein;

b. was/were made by, or from information transmitted by,
a person with knowledge of those matters;

c. was/were kept in the course of the regularly conducted activity of the Business Entity;

d. was/were made by and in the course of the regularly conducted activity as a regular practice; and

e. if not original records, are exact duplicates of original records.

I declare under penalty of perjury that the foregoing is true and correct. This declaration is executed on 12.20.24

(date document was signed) and executed at Los Angeles County (place document was signed).

document was signed).

executed at Los ANGELES County

BENT BURNS

(typed or printed name)



Inmate Summary

Inmate Information								
Inmate ID:	C38374							
Name:	MICHAEL LERMA							
Location:	KVSP							
Facility:	California Department of Corrections & Rehabilitation							

Deposits								
Date	Location	TransID	CustomerID	Customer	Amount	Type	Batch	IP Address
11/08/2015	KVSP	51818564	13268361	Anita L Rico	\$10.00	Credit Card	93556	71.189.160.208
09/13/2015	COR	49847421	13268361	Anita L Rico	\$10.00	Credit Card	93500	71.189.160.208
09/09/2015	COR	49724484	14663956	JACKIE PEREZ	\$200.00	MONEYGRAM	93496	
08/26/2015	COR	49202006	9546702	trisha salas	\$100.00	Credit Card	93482	172.56.16.249
08/13/2015	COR	48840607	14417882	JACKIE PEREZ	\$300.00	MONEYGRAM	93469	
08/07/2015	COR	48653866	13268361	Anita L Rico	\$10.00	Credit Card	93463	71.189.160.208
08/06/2015	COR	48606786	14026340	Kimberly r nick	\$50.00	Credit Card	93462	66.193.196.226
07/12/2015	COR	47814477	13268361	Anita L Rico	\$10.00	Credit Card	93437	71.189.160.208
07/01/2015	COR	47427101	14026340	Kimberly r nick	\$50.00	Credit Card	93426	216.4.56.143
06/25/2015	COR	47257210	13268361	Anita L Rico	\$10.00	Credit Card	93420	71.189.160.208
06/14/2015	COR	46926036	9546702	trisha salas	\$100.00	Credit Card	93409	172.56.38.130
06/09/2015	COR	46796475	12072849	Theresa Guevara	\$50.00	Credit Card	93405	172.5.140.73
06/04/2015	COR	46622529	13798323	Rosie R Lerma	\$250.00	Credit Card	93399	99.99.66.73
05/28/2015	COR	46349604	13268361	Anita L Rico	\$20.00	Credit Card	93393	71.189.160.208
05/28/2015	COR	46337353	13725347	Mysha Hernandez	\$200.00	Credit Card	93393	23.240.181.243
05/09/2015	COR	45809486	7607298	Jesus Pimentel	\$50.00	Credit Card	93374	12.20.180.82
04/15/2015	PSP	45016171	7188204	Brenda velasquez	\$30.00	Credit Card	93350	172.56.31.240
04/05/2015	PSP	44710047	13268361	Anita L Rico	\$10.00	Credit Card	93340	71.189.160.208
03/26/2015	PSP	44355498	7607298	Jesus Pimentel	\$30.00	Credit Card	93330	201.142.179.145
01/19/2015	PSP	42141477	7607298	Jesus Pimentel	\$100.00	Credit Card	93264	166.170.51.252
12/24/2014	PSP	41399397	9546702	trisha salas	\$200.00	Credit Card	93238	172.56.41.67
11/26/2014	PSP	40513487	9978222	Denise Morales	\$100.00	Credit Card	93210	207.166.80.166
10/30/2014	PSP	39695273	9978222	Denise Morales	\$100.00	Credit Card	93183	207.166.80.166
10/14/2014	PSP	39294839	9546702	trisha salas	\$150.00	Credit Card	93167	172.56.41.159
05/01/2014	PSP	34486795	9978222	Denise Morales	\$100.00	Credit Card	93002	198.228.208.93
04/03/2014	PSP	33735410	9323497	Fatima Renteria	\$50.00	Credit Card	92973	99.44.218.21
03/31/2014	PSP	33643975	9978222	Denise Morales	\$100.00	Credit Card	92971	166.137.177.235
12/26/2013	PSP	30923965	9126265	Nataly Gonzales	\$190.00	Credit Card	92875	198.228.211.86
10/21/2013	PSP	29162345	8497838	allyssa c chavez	\$50.00	Credit Card	92809	10.30.50.79
09/11/2012	PSP	20998699	2352985	cheryl perez	\$100.00	Credit Card	92404	96.251.198.47
02/08/2012	PSP	17323798	2352985	cheryl perez	\$120.00	Credit Card	92188	

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02/06/2012	PSP	17295118	5008577	ANDRES HOPE	\$93.05	MONEYGRAM	92186	
12/09/2011	PSP	16312304	2013219	amalia ortiz	\$50.00	Credit Card	92127	76.171.226.242
08/23/2011	PSP	14696578	4204917	Theresa Chavez	\$50.00	Credit Card	92019	
06/17/2011	PSP	13804964	3979003	TRACY RICHARDS	\$195.00	ACE	91952	
04/07/2011	PSP	12855879	3707320	VICKY MAGANA	\$100.00	ACE	91882	
03/14/2011	PSP	12526204	3609353	TRACY RICHARDS	\$195.00	ACE	91858	
02/16/2011	PSP	12135272	3491098	Karla Dalley	\$93.05	Credit Card	91832	
12/25/2010	PSP	11437201	3226956	Robert A Legard	\$50.00	Credit Card	91779	76.175.102.131
11/22/2010	PSP	11004013	3156122	ALICE LANDERS	\$195.00	ACE	91746	
07/24/2010	PSP	9577407	2732188	CHERYL PEREZ	\$80.00	MONEYGRAM	91625	
06/12/2010	PSP	9151211	2610448	JUDY GARCIA MARQUEZ.	\$195.00	ACE	91583	
04/18/2009	PSP	5083276	1438828	maria rea	\$200.00	Credit Card	91165	76.91.80.38

Media Transfers (from customer to inmate account)								
Date	Location	TransID	CustomerID	Customer	Amount	Type	Media Type	IP Address

Media Transfers (from inmate account to prepaid account)				
Date	Location	TransID	Amount	Type

Letters Received					
Date	Letter ID	Location	CustomerID	Customer	IP Address

Letters Sent					
Date	Customer	CustomerID	Letter ID	Location	IP Address

Scheduled calls					
Call ID	Customer Name	DATE	TIME	Call duration in minutes	Kiosk ID

Other calls						
Call ID	Customer Name	DATE	TIME	Call duration in minutes	Kiosk ID	Status

Inbound Support Tickets					
LETTER ID	ORIGINAL DATE			MESSAGE	

Outbound Support Tickets					
LETTER ID	ORIGINAL DATE			MESSAGE	

Phone Transaction						
PHONE TRANSFER ID	DATE	CUSTOMER FIRST NAME	CUSTOMER LAST NAME	CUSTOMER ID	PHONE NUMBER	AMOUNT
TYPE						

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Questions? Call us at (800) 574-5729

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EXHIBIT B

VERBATIM TRANSCRIPTION

Participants

SG: Seferino Gonzalez
CC: Cheryl Castaneda

Abbreviations

Primary language: (standard) English
Secondary Language: (italics) Spanish
UI: Unintelligible
OV: Overlapping Voice

SG: What did Dopey say?

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EXHIBIT 215a
Page 1 of 3

CC: What happen?

SG: Que deho Dopey? (What did Dopey say?)

CC: Oh um I guess he told somebody else had told him to call me and stuff. But anyway um huh.

SG: Huh?

CC: Oh tell him I'll call him back, I'm on the phone. Um that's him on the phone. Um what's you call it. Um if he just wanted to know if he is do over there, like what is happening over here.

SG: Yah

CC: And I told him, that that's good it will help me out. And she knows who that guy that Vato Grumpy is. I guess he has the ah, he has it to his neighborhood right now.

SG: Yah?

CC: Yah that's what he said. You know and I guess they had a meeting. They want they want some toys.

SG: They want some toys.

CC: I don't know. I can't get none of those.

SG: Yah Yah we can't.

CC: I'm not sure I want to do that, hell no. Ugh ugh You never know what this mother fucker going to strip the fuck up, you know. I have told them, you know um, the one that who is, she told me he um, what the fuck was his name. What um oh there was an older Vato there with him. He fucking looked all chunt. He knows you and your brother.

SG: Who? Shorty?

CC: Um, who?

SG: Shorty?

CC: Is that the name I told you the other day?

SG: No you told me Gru Grumpy.



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CC: Ok, no no no no. Ahh,

SG: Oh Big Head.

CC: Dopey no not B-nut.

SG: Dopey.

CC: Dopey and um.

SG: Diablo.

CC: There was another guy and um, there's another guy forgot what his name was. It slip my mind right now. He's like, ohhhh those are your boys, well yah yah they're good. Am like, Yah, you know what? They take care of everything over here. I said, you know, that's what you know. I gave you guys the respect not to go over there. You know that's what I respect in return. But he's like, alright you know but you know shit fluctuates. I know how it goes, you know. He's like alright you know. He put my name in there for your brother. I'm like, well you know, I'll talk to you about it later. I said, I got so much shit going on right now, UI.

SG: Look am I tell you right now I got no fucking UI coz your brother would have not gave up anything, if he didn't trust them those fools UI.

CC: Yah

SG: You know me; he would gave it to Nato.

CC: Yah, yah

SG: Knowing he didn't give it to him, you know.

CC: Yah, yah

[End of transcription]



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EXHIBIT C

Michael Ferma
C-38374, D-3-113
P.O. Box 7500
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UNIT D-3

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PELICAN BAY S.H.U.
UNIT D-3

Jrisha Aguirre
168 W. Willow #216
Pomona, Calif.

91768\$1828



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P.O. Box 7500
Crescent City, Calif.
95532

PELICAN BAY STATE PRISON
5905 Lake Earl Dr
Crescent City CA 95532

FIRST CLASS



Purple Martin

Cheryl L. Perez
260^E LaVerne Ave.
Pomona, Calif.

91767

PELICAN BAY S.H.U.
UNIT D-3

9176732349

LS_013390

EXHIBIT 359

Page 2 of 2

1.

Say Trisha,

Sept. 18, 2013.

Hello, well yesterday I received your letter and I want to thank you for writing and say your welcome for the Birthday Card. ain't no thing, I keep you in mind because it's also Danny's Birthday too. So I send you a card too.

How are you, your Baby, mom and all of our family doing? I hope that my letter finds you and all of our loved ones in the best of health, in Happy Spirits and Safe. As for myself I'm okay. Just here as usual relaxing and taking it easy.

Let me get to answering your letter from Sept 5, 2013. Don't trip on not writing to me, I know that you're busy with your baby and family. the only one I do trip on is your mom. the reasons are because I love her a lot, I care for her a lot and have known her for about 40 years. She means the world to me and has stuck by me all of these years. plus the past two years have been really bad and hard for her and you too. you lost your Dad and your Sister Sophia both were very hard on your mom and you too. So I try my best to love her and stay by her side the best that I can and hope that she is okay. She will always have me and you too. K. as for myself all is okay up this way. waiting to hear from the courts on my

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2.

halles corpus and waiting to hear from your mom. ☺ oh do me a very big favor I just sent your mom a form for a T.V. and I asked her to look for some Christmas cards for me and a 2014 calendar. but! now I need her or you to please call Walkenhorst's for me K? here is a form with their phone ~~1000-874-0000~~ 660-9255 call them and ask them to mail you and me an "Appliance Catalog". it is important to get one. because it has the ~~radios~~ are now allowed to get and buy. so please get me K? and it looks like we will be able to get two (2) packages a year now. and other new stuff which I'll let you guys know about later on. if they won't send me an "Appliance Catalog" make sure they mail you one and then you can mail it to me okay? thank you! and help. ☺ Lastly ask her about the copies of my picture oh and the pictures of her. I asked your mom for? tease her and tell her sexy pictures of herself. ☺

All right then Irish. all for now. You take care, write soon, give everyone my love and hellos for me. I love you, I miss you and enjoy life!

With love always your Jia,
Michael Germa

LS_013385

Nov. 10, 2012.

1. Dear Cheri,

Hello, just dropping in on you with a few lines to check on you and see how you're doing and holding up. but first let me ask how are you, the kids, Grandkids and all of our family doing? I hope that my wife, Litter friends, you and all of our loved ones in the best of health and in happy holiday spirits. As for myself I'm A-OKAY.

Well before I forget. Yesterday I did get the magazines that you ordered for me. All 9 of them. Thank you so much for that. I appreciate you helping me out. Right now I'm good on everything and I just got the money that you sent. So I could use the 2013 calendar if you please!? And since it's Christmas time I do need (20) twenty Christmas cards please? Other than that I'm all good. Oh just to remind you. You can ONLY mail me five (5) Christmas cards in one envelope at a time K. But, you can mail me (4) four manila envelopes at one time K? Thank you! You know that I love you.

PELICAN MAIL S.H.D.

So how are things going with you and Vi's family? The thing to keep in mind is that people forget all of the love you and Vi had, the kids and all of the years you were together. They

LS_013391

2.

were quick to forget that. and they let greed and selfishness control their actions. don't stoop down to their level of pettiness. be above them. you have your kids, his memories, your family and me always right? ignore them and move forward in life! anyway have you talked to Jim lately? how about my Becky. I really would love a few pictures of her please? tell her they are for Christmas a big surprise for me! How was work at the fair this year? I see you didn't find me any single woman to write. what's up with that? are you keeping me all to yourself? or find out if Trina got the portrait of Alba and Danny that I sent her okay? Since she doesn't write to me. Lastly give everybody my love and hello for me K.

all right then cheri. I'll bring this one to an end here. You take care, I love you, I miss you, give the kids my love and rest for me, write soon, don't work to hard and enjoy life!

With love always,
Michael Lerma

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EXHIBIT D

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EXHIBIT E

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13 Phone: (949)887-2397

14 Attorneys for Defendant Michael Lerma

15
16 United States District Court
17 For the Central District of California

18
19 United States of America,
20 Plaintiff,
21 v.
22 Michael Lerma, et al.,
23 Defendant.

24 Case No 18-cr-172-GW
25 DECLARATION OF COUNSEL IN
26 SUPPORT OF APPLICATION FOR
27 WRIT OF HABEAS CORPUS AD
28 TESTIFICANDUM
[IN CAMERA]

1
2 DECLARATION OF MARRI DERBY
3
4

5 I, Marri Derby, declare:
6
7

- 8 1. I am a lawyer licensed by the State of California and admitted to
9 practice before the Ninth Circuit. I have been appointed to represent Mr.
10 Lerma in this matter.
- 11 2. Cooperating witnesses (CW's) in this case, including Jo Ma (the
12 cellmate of SB who is the victim of the homicide), state that Lerma
13 ordered discipline and had co-defendants carry it out. They state that
14 Lerma ordered "Scooby" to be stabbed by co-defendants.
- 15 3. I was informed of the following: On February 3, 2025, Defense
16 Investigator Marcelo Sabbatella and attorney Joel Furman met with
17 Francisco Ruiz at LACJ Men's Central. Mr. Sabbatella and Mr. Furman
18 asked Mr. Ruiz about his ever being stabbed while at MDC and whether
19 he was ever assaulted by any of the defendants in this case. Mr. Ruiz
20 said he was never stabbed or assaulted by any of the defendants in this
21 case. He lifted his shirt and showed them his torso and his arms. There
22 were no visible scars or wounds. Mr. Sabbatella explained to Mr. Ruiz
23 what J Ma reported, including "Scooby got it bad...got stabbed
24 four different times and beat up" over a stolen watch. Mr. Ruiz
25 explained that J M stole a watch and traded it with Mr. Ruiz.
26 Mr. Ruiz did not know the watch had been stolen. Mr. Ruiz began
27 wearing the watch and was asked to take it off and turn it over. It had a
28 "B" etched into the back and was determined to be the watch stolen
from a black inmate at MDC named Bird. Mr. Ruiz said he explained
what had happened. He noted that stealing in custody is not condoned
and you get disciplined for doing it. He said Jo Ma was
disciplined by the Surenos (because Jose is a Sureno). Mr. Ruiz said

1 he was verbally disciplined by MS 13 (as that is his gang affiliation) for
2 not paying proper attention to "when obtaining property." He also
3 admitted to drinking and doing "Spice" with Jo M while at
4 MDC.

- 5 4. These statements are important to the defense because the defense
6 theory is that the CW's stories are not true, they just repeat rumors they
7 have heard in order to benefit from their cooperation. Jo Ma lied to
8 make himself look better, saying Scooby stole the watch. Additionally, the
9 defense includes the fact that Jo Ma is a drug addict and used
10 whatever he could get his hands on while at MDC, which was typically
11 Spice. Spice is a drug that often induces psychosis, and he was under the
12 influence of Spice when he killed SB.
13 5. I declare under penalty of perjury that the foregoing is true and correct to
14 the best of my knowledge.

15 Executed on the 9th day of February, 2025, at Newport Beach, CA.
16

17 _____
18 /s/Marri Derby
19 Marri Derby
20 Attorney for Michael Lerma
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EXHIBIT F

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3 23 Corporate Plaza, Ste. 150
4 Newport Beach, CA 92660
5 marri@marriderbylaw.com
6 Phone: (949) 478-5084
7 Fax: (949) 608-7034

8 Joel M. Furman State Bar #282222
9 Law Office of Joel Furman
10 1432 Edinger Ave., Ste. 20
11 Tustin, CA 92760
12 joelfurmanlaw@gmail.com
13 Phone: (949)887-2397

14 Attorneys for Defendant Michael Lerma

15
16 United States District Court
17 For the Central District of California

18
19 United States of America,
20 Plaintiff,
21 v.
22 Michael Lerma, et al.,
23 Defendant.

24 Case No 18-cr-172-GW
25 DECLARATION OF COUNSEL IN
26 SUPPORT OF APPLICATION FOR
27 WRIT OF HABEAS CORPUS AD
28 TESTIFICANDUM – LD Sr.
[IN CAMERA]

1
2 DECLARATION OF MARRI DERBY
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5 I, Marri Derby, declare:
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7

- 8 1. I am a lawyer licensed by the State of California and admitted to
9 practice before the Ninth Circuit. I have been appointed to represent Mr.
10 Lerma in this matter.
- 11 2. A few weeks ago, Defense Investigator Marcelo Sabbatella and I met
12 with Mr. Lamont Devault Jr. at Soledad CTF. Mr. Devault told us many
13 things, including, he was housed on the 6th floor at the time of Mr.
14 Bencom's murder. He said Mr. Bencom was his "crimey" (co-defendant)
15 on his underlying case at Centinela state prison. He liked Mr. Bencom.
16 He noticed that Mr. Bencom was very stressed and had a personality
17 change while at MDC. He said he never realized Mr. Bencom was a
18 heroin addict while in state prison because apparently he was able to
19 get heroin easily there. At MDC he was constantly stressing about
20 getting drugs. It changed his personality, he was always "stressing". He
21 also said that A Ja n "Fish" was a liar and would do anything
22 to get out of custody. It was very easy to tell that Jackson was a
23 cooperator because he was always listening in to everyone's business
24 and asking questions. He said that J V r and Jo Jo
25 were "always crying about the time they facing, saying waaa waaa, I
26 can't do this much time." "I knew they would try to sell information". He
27 said you can't believe anything they say because they "would sell their
28 mothers to get out." He also said anything they say about Mexican
 Mafia politics is a lie because each race never discusses their races
 politics. If you are doing business, then you only talk about that.
 Otherwise you talk about the weather or the news or whatever else, but

1 not race/prison politics. Surenos definitely keep their business to
2 themselves.

3 3. These statements are important to the defense because the
4 government's theory is that Mr. Bencom was stressed about a debt to
5 Mr. Lerma. He also is important regarding how the races interact in
6 prison, specifically MDC. He is also important regarding the credibility of
7 An Ja , J V and Jo J , who are all black
8 inmates like Mr. Devault.

9 I declare under penalty of perjury that the foregoing is true and correct to
10 the best of my knowledge.

11 Executed on the 30th day of January, 2025, at Newport Beach, CA.
12

13 _____
14 /s/Marri Derby
15 Marri Derby
Attorney for Michael Lerma
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EXHIBIT G

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14 Attorneys for Defendant Michael Lerma

15
16 United States District Court
17 For the Central District of California

18
19 United States of America,
20 Plaintiff,
21 v.
22 Michael Lerma, et al.,
23 Defendant.

24 Case No 18-cr-172-GW
25 DECLARATION OF COUNSEL IN
26 SUPPORT OF APPLICATION FOR
27 WRIT OF HABEAS CORPUS AD
28 TESTIFICANDUM
[IN CAMERA]

1
2 DECLARATION OF MARRI DERBY
3
4

5 I, Marri Derby, declare:
6
7

- 8 1. I am a lawyer licensed by the State of California and admitted to
9 practice before the Ninth Circuit. I have been appointed to represent Mr.
10 Lerma in this matter.
- 11 2. Cooperating witnesses (CW's) in this case, including J M (the
12 cellmate of SB who is the victim of the homicide), state that Lerma
13 ordered discipline and had co-defendants carry it out. They state that
14 Lerma ordered "Scooby" to be stabbed by co-defendants.
- 15 3. I was informed of the following: On February 3, 2025, Defense
16 Investigator Marcelo Sabbatella and attorney Joel Furman met with
17 Francisco Ruiz at LACJ Men's Central. Mr. Sabbatella and Mr. Furman
18 asked Mr. Ruiz about his ever being stabbed while at MDC and whether
19 he was ever assaulted by any of the defendants in this case. Mr. Ruiz
20 said he was never stabbed or assaulted by any of the defendants in this
21 case. He lifted his shirt and showed them his torso and his arms. There
22 were no visible scars or wounds. Mr. Sabbatella explained to Mr. Ruiz
23 what J M reported, including "Scooby got it bad...got stabbed
24 four different times and beat up" over a stolen watch. Mr. Ruiz
25 explained that Jose Martinez stole a watch and traded it with Mr. Ruiz.
26 Mr. Ruiz did not know the watch had been stolen. Mr. Ruiz began
27 wearing the watch and was asked to take it off and turn it over. It had a
28 "B" etched into the back and was determined to be the watch stolen
from a black inmate at MDC named Bird. Mr. Ruiz said he explained
what had happened. He noted that stealing in custody is not condoned
and you get disciplined for doing it. He said J Ma was
disciplined by the Surenos (because Jose is a Sureno). Mr. Ruiz said

1 he was verbally disciplined by MS 13 (as that is his gang affiliation) for
2 not paying proper attention to "when obtaining property." He also
3 admitted to drinking and doing "Spice" with J M while at
4 MDC.

- 5 4. These statements are important to the defense because the defense
6 theory is that the CW's stories are not true, they just repeat rumors they
7 have heard in order to benefit from their cooperation. J M lied to
8 make himself look better, saying Scooby stole the watch. Additionally, the
9 defense includes the fact that J Ma is a drug addict and used
10 whatever he could get his hands on while at MDC, which was typically
11 Spice. Spice is a drug that often induces psychosis, and he was under the
12 influence of Spice when he killed SB.
13 5. I declare under penalty of perjury that the foregoing is true and correct to
14 the best of my knowledge.

15 Executed on the 9th day of February, 2025, at Newport Beach, CA.
16

17 _____
18 /s/Marri Derby
19 Marri Derby
20 Attorney for Michael Lerma
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mail

arri Derby <marribarton@gmail.com>

T, Lamont

3 messages

McDaniel, Shaton (USMS) <Shaton.McDaniel2@usdoj.gov>
To: "Javier_Gonzalez@cacd.uscourts.gov" <javier_gonzalez@cacd.uscourts.gov>
Cc: marri derby <marri@marriderbylaw.com>

Wed, Mar 5, 2025 at 10:00 AM

Good morning,

Please be advised that Mr. Devault refused again this morning to allow USMS deputies to pick him up from his state facility.

Respectfully,

Shaton L. McDaniel, Investigative Analyst (IA)

Department of Justice (DOJ)

United States Marshals Service (USMS)

Central District of California – C/CA - Los Angeles

Work iPhone: (213) 670-3172

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Investigative Analyst email: usms-cca-los-inv.analyst@usdoj.gov

Detention Management email: cac.dmu@usdoj.gov

mail: cac-cellblock@usdoj.gov

ation email: cac.courtop@usdoj.gov

